

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIACRISTIAN T. PEREZ,
Plaintiff,

v.

DR. BURGER, et al.,
Defendants.

Case No. 23-cv-03586-PCP

**ORDER DISMISSING ACTION
WITHOUT PREJUDICE**

Plaintiff sent the Court his 42 U.S.C. § 1983 complaint and application to proceed in forma pauperis (“IFP”) by regular mail from San Quentin State Prison, a facility which participates in prison email filing with this Court. The Clerk sent Plaintiff a Notice to file his complaint and IFP application by prison email as required by General Order No. 76. Dkt. No. 3. The Clerk also notified Plaintiff that his IFP application was incomplete and must be perfected. Dkt. No. 4.

Plaintiff has neither complied with the Clerk’s instructions to file by email, nor shown good cause for not doing so. Plaintiff also did not pay the filing fee or complete his IFP application, and the deadline by which to do so has passed.

Accordingly, this federal civil rights action is DISMISSED without prejudice for failure to comply with the Clerk’s Notice and for failure to prosecute. *See* Federal Rule of Civil Procedure 41(b). Plaintiff’s incomplete motion to proceed IFP is DENIED as improperly filed. Dkt. No. 2.

1 Because this dismissal is without prejudice, Plaintiff may ask to reopen the action. To do
2 this, he must file:

- 3 (i) by prison email an exact copy of his complaint in accordance with the instructions
4 in the Notice, and a motion with the words MOTION TO REOPEN written on the
5 first page; or
6 (ii) by regular mail a motion for leave to file his complaint by regular mail, in which he
7 shows good cause why he cannot submit his documents electronically.

8 Plaintiff must perfect his IFP application together with any request to reopen this action.

9 The Clerk shall terminate all pending motions and close the file.

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11 **IT IS SO ORDERED.**

12 Dated: December 21, 2023

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15 P. Casey Pitts
16 United States District Judge
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